



## **PLEASE NOTE**

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the [Table of Public Acts](#).

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## CHAPTER C-9

### CIVIL SERVICE SUPERANNUATION ACT

1. In this Act	Definitions
(a) “court order” means an order of a court of competent jurisdiction in Canada;	court order
(b) “Crown Corporation” means a Crown Corporation as defined in the <i>Financial Administration Act</i> R.S.P.E.I. 1988, Cap. F-9;	Crown Corporation
(c) “date of the marriage” means the date on which a man and a woman married or went through a form of marriage that is voidable or void, in good faith on the part of the person asserting a right under the <i>Family Law Act</i> R.S.P.E.I. 1988, Cap. F-2.1;	date of the marriage
(d) “date of marriage breakdown” means the earliest of the following dates: (i) the date the spouses begin to live separate and apart, (ii) the date a divorce is granted, (iii) the date the marriage is declared a nullity, or (iv) the date one of the spouses commences an application based on subsection 6(2) of the <i>Family Law Act</i> respecting improvident depletion that is subsequently granted;	date of marriage breakdown
(e) “dependant” in relation to an individual entitled to or receiving a pension under this Act at the time of the individual’s death, means a parent, grandparent, brother, sister, child or grandchild of the individual who, at that time, is both dependent on the individual for support and (i) under 18 years of age, (ii) under 21 years of age and in full-time attendance at an institution of post-secondary education, or (iii) dependent on the individual by reason of mental or physical infirmity;	dependant
(f) “domestic contract” means a domestic contract as defined in Part IV of the <i>Family Law Act</i> ;	domestic contract
(g) “Fund” means the Civil Service Superannuation Fund;	Fund
(h) “Long Term Disability Insurance Plan” means any Long Term Disability Insurance Plan that a participating employer provides for its employees;	Long Term Disability Insurance Plan
(i) “member” includes	member

- (i) a person who was a contributor to the Fund immediately preceding the date on which this Act comes into force,
- (ii) a permanent, probationary or provisional employee as defined in the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8,
- (iii) an executive division employee holding a position referred to in clauses 8(1)(a), (c), (d) and (h) of the *Civil Service Act*,
- (iv) a former employee of a participating employer who is receiving disability payments under a Long Term Disability Insurance Plan,
- (v) a contract employee whose contract of employment provides for participation in the Fund,
- (vi) a former employee who is in receiving wage loss benefits under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1 in respect of a total loss of earning capacity, and
- (vii) any other person who
  - (A) is an employee of a participating employer,
  - (B) is not subject to the *Civil Service Act* R.S.P.E.I. 1988, Cap. 8, and
  - (C) is included as a member by the regulations;

Minister	(j) “Minister” means the Provincial Treasurer;
pension benefit	(k) “pension benefit” means any pension, allowance, annuity, return of contributions or other benefit or amount payable under the Act;
pensionable service	(k.1) “pensionable service” means service for which contributions have been made as required under this Act;
pensioner	(l) “pensioner” means a former member who is receiving periodic pension payments from the Fund in accordance with this Act;
regulations	(m) “regulations” means regulations made under this Act;
salary	(n) “salary” means compensation paid to a member for labour or services, and, where applicable, includes such amounts of compensation as are prescribed amounts for the purposes of subsection 147.1(1) of the <i>Income Tax Act</i> (Canada) related to disability and eligible periods of reduced pay and temporary absence, but does not include expense allowances or overtime payments;
service	(o) “service” means <ul style="list-style-type: none"> <li>(i) for any period of time prior to May 1, 1999, continuous full-time service as a member and includes           <ul style="list-style-type: none"> <li>(A) time spent in Her Majesty’s forces or in service auxiliary thereto during World War I, World War II, or the Korean War, unless that time has been included in the calculation of service in relation to any other pension or superannuation benefit,</li> </ul> </li> </ul>

(B) any period during which a member is in receipt of disability payments,

(C) any period during which a member is in receipt of wage loss benefits under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1 in respect of a total loss of earning capacity subject to a maximum period from the date of the injury giving rise to the benefits of

(I) two years, or

(II) if less, until attainment of the age of 65 or the completion of 35 years of service, whichever first occurs;

(ii) for any period of time on or after May 1, 1999, continuous service as a member in a position requiring at least 600 hours of work in each year, and includes

(A) time spent in Her Majesty's forces or in service auxiliary thereto during World War I, World War II, or the Korean War, unless that time has been included in the calculation of service in relation to any other pension or superannuation benefit,

(B) any period during which a member is in receipt of disability payments,

(C) any period during which a member is in receipt of wage loss benefits under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1 in respect of a total loss of earning capacity subject to a maximum period from the date of the injury giving rise to the benefits of

(I) two years, or

(II) if less, until attainment of the age of 65 or the completion of 35 years of service, whichever first occurs;

(p) "spouse" means spouse as defined in Part I of the *Family Law Act* and is either a man or woman who

(i) are married to each other, or

(ii) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Act,

and references in this Act to a wife, husband, widow, or widower shall be construed as references to a spouse;

(q) "vested former member" means a former employee who is not a pensioner and who is not receiving disability payments under a Long Term Disability Insurance Plan but who is entitled to a deferred or immediate pension from the Fund in accordance with this Act. 1998,c.84,s.1; 1999,c.21,s.1; 2001,c.30,s.1; 2004,c.28,s.1.

2. (1) This Act applies to participating employers, as prescribed by the regulations, who make or have made contributions to the Fund.

- Contributions (2) The Lieutenant Governor in Council may by Order in Council provide
- (a) for the manner in which contributions to the Fund by a person to whom the Act is declared to apply shall be collected and paid to the Fund; and
  - (b) subject to subsection 7(9), that the employer of that person pay to the Fund an amount equal to that paid by that person, together with such further or other contributions thereto as the Lieutenant Governor in Council may consider necessary to prevent improper or unreasonable depletion thereof. 1981,c.5,s.2; 1987,c.10,s.2; 1992,c.11,s.1; 1993,c.30,s.61; 1995,c.7,s.1; 1996,c.8,s.2; 1997,c.22,s.30; 1999,c.21,s.2; 2000,c.4,s.5; 2001,c.30,s.2; 2004,c.28,s.2.
- Reciprocal transfer agreement with Canada **3.** (1) The Minister may enter into a reciprocal transfer agreement with the Government of Canada upon the terms and conditions provided for and set forth in section 40 of the *Public Service Superannuation Act* (Canada) R.S.C. 1985, Chap. P-36.
- Other reciprocal transfer agreements (2) The Minister may enter into reciprocal transfer agreement with the government of any province of Canada, with any Crown Corporation of Canada, with any municipality, college or university in Prince Edward Island or with the Council of Maritime Premiers for the transfer of superannuation funds and periods of superannuation service.
- Government reciprocal transfer agreement (2.1) For greater certainty, a reciprocal transfer agreement providing for the transfer of superannuation funds and periods of superannuation service may be entered into between the Minister and
- (a) the Minister responsible for the administration of Teacher's Superannuation Fund established under the *Teacher's Superannuation Act* R.S.P.E.I. 1988, Cap. T-1;
  - (b) the Minister responsible for the Prince Edward Island Education Sector Non-Instructional Pension Plan or any successor plan; or
  - (c) the Minister responsible for the Uniform Pension Plan for Employees of Prince Edward Island Health & Community Services System or any successor plan.
- Transfer of service (3) Any member or person to whom this Act is declared to apply who has been a contributor to any superannuation fund of an authority with which a reciprocal transfer agreement has been made under subsection (1), (2) or (2.1) may transfer his or her years of superannuation service as recognized by his or her employer
- (a) on the transfer of the amount of superannuation funds required by the agreement; or

(b) if the agreement does not specify the amount of superannuation funds required to be transferred, on the transfer of the amount of the superannuation funds required by the Minister.

(4) Upon the transfer referred to in subsection (3) the member or person shall be deemed to have been in the employ of the provincial government for the recognized period of service, as determined by the Minister, and to be eligible accordingly to the benefits provided under this Act. Effect of transfer

(5) Where a member or person to whom this Act is declared to apply had been a member of the registered pension plan of a previous employer and there exists no reciprocal transfer agreement, the Minister may permit the direct transfer of a lump-sum amount in respect of the member or person from the pension plan of the previous employer into the Fund. Transfer of lump sum from previous employer

(6) The pensionable service used in section 8 to determine the amount of pension to which a member or person is entitled under this Act shall include all or part of the service that had been credited to the member or person under the pension plan of the previous employer, as determined by the Minister, subject to the condition that the amount of additional pensionable service credited under this subsection shall in no case exceed the amount of service credited to the member or person under the pension plan of the previous employer. Determination of service

(7) Notwithstanding subsections (5) and (6), the transfer of money from the pension plan of the previous employer shall not be accepted nor shall additional pensionable service be credited under subsection (6) unless the member or person has ceased to be a member of the pension plan of the previous employer and is not entitled to any further payments from that plan. Condition requiring cessation of payments from former plan

(8) Any reciprocal transfer agreement, the acceptance of the lump-sum amount and the crediting of additional pensionable service under this section shall be subject to any restrictions or limitations imposed under the *Income Tax Act* (Canada). Income tax requirements apply

(9) Where a former member transfers money from the Fund into a superannuation fund referred to in subsection (3) in respect of the transfer of his or her years of superannuation service, any surplus funds remaining as a result of the transfer shall be distributed in accordance with the regulations. 1981,c.5,s.3; 1993,c.28,s.2; 1996,c.8,s.3; 2000,c.4,s.5; 2001,c.30,s.3; 2004,c.28,s.3; 2005,c.39,s.8. Surplus funds

4. The Minister shall administer this Act and may designate persons to act on the Minister's behalf; 1981,c.5,s.4; 1998,c.84,s.2; 2000,c.4,s.5. Administration

Superannuation Fund	<b>5.</b> (1) There shall continue to be a fund to be known as the Civil Service Superannuation Fund into which shall be paid all contributions made under this Act and out of which shall be paid all pensions, allowances and refunds authorized by this Act and administrative expenses as authorized by the Minister.
Actuarial valuation	(2) There shall be periodic actuarial valuations of the Fund at such times as the Minister may direct.
Payments guaranteed by Operating Fund	(3) Subject to subsection 7(9), if at any time the Fund is insufficient to make all payments by this Act required to be made, the Minister shall pay into the Fund out of the Operating Fund an amount sufficient to enable the payments to be made.
Investment of Fund	(4) The Fund shall be held in trust by the Minister and shall be invested in accordance with the investment policy approved by the Lieutenant Governor in Council.
Reduction of unfunded liability	(5) For the purpose of reducing the unfunded liability of the Fund, the Lieutenant Governor in Council shall pay \$63.35 million into the Fund over a period of 10 years, commencing April 1, 1995, in accordance with the Schedule. 1981,c.5,s.5; 1987,c.10,s.3; 1995,c.7,s.2; 1996,c.8,s.4; 1997,c.20,s.3.
Annual Report	<b>6.</b> The Minister shall in each year transmit to the Lieutenant Governor in Council a report on the operations of the Fund in the preceding fiscal year giving such information as the Lieutenant Governor in Council may require. 1981,c.5,s.6.
Member's contribution	<b>7.</b> (1) Subject to subsection (9) and the maximum contribution limits imposed under the <i>Income Tax Act</i> (Canada), the amount of a member's contribution is <ul style="list-style-type: none"> <li>(a) eight and three-quarters per cent of that part of his salary that represents the basic exemption under the Canada Pension Plan as defined in the <i>Canada Pension Plan Act</i> R.S.C. 1985, Chap. C-8;</li> <li>(b) six and nineteen-twentieths per cent of that part of his salary that exceeds the basic exemption up to the amount of the "Year's Maximum Pensionable Earnings" as defined in the said Act;</li> <li>(c) eight and three-quarters per cent of that part of his salary that exceeds the amount of the "Year's Maximum Pensionable Earnings";</li> <li>(d) eight and three-quarters per cent of the salary of a member whose employment is excluded from the Canada Pension Plan.</li> </ul>
Contribution calculation where salary deferred or hours reduced	(2) Subject to subsection (2.1) and the requirements of sections 8507 and 8508 of the regulations to the <i>Income Tax Act</i> (Canada), a member who

(a) is participating in the deferred salary plan pursuant to the collective agreement; or  
 (b) otherwise elects to reduce his hours of work,  
 shall continue to make member contributions calculated on the reduced salary the member is actually receiving or, at the member's option, on the salary he would have received if he had continued to work at the normal full-time hours for his position.

(2.1) Subsection (2) does not apply to a member whose hours of work are reduced to less than half of the normal full-time hours for his position. Maximum reduction

(3) The employer shall deduct in proportion in each pay period from the salary of each member the amount of the member's contribution and pay the same into the Fund. Deduction

(4) Subject to subsection (9), the employer shall in respect of each member make an employer's contribution equal to the amount of the member's contribution and pay the same into the Fund. Employer's contribution

(5) No contribution is payable under this section by or in respect of a member who has made a member's contribution for thirty-five years. No contributions after thirty-five years

(6) A member who is receiving disability payments under a Long Term Disability Insurance Plan shall be deemed for all purposes under this Act to continue in pensionable service during the period the member is receiving such payments if the insurer under the Long Term Disability Insurance Plan remits to the Minister, on behalf of the member and for the benefit of the Fund, the amount of the member's contribution for that period. Contributions by insurer for member receiving disability payments under the Plan

(7) Subject to subsection (8), an member who continues to be a member after attaining the age of sixty-five years shall continue to contribute to the Fund until he has contributed for a maximum of thirty-five years or retires, and upon retirement his pension shall be determined in accordance with section 8. Contribution for service after attaining sixty-five

(8) In no event shall a member continue to contribute to the Fund after the last day of the year in which the member attains the age of sixty-nine years, and any pension to which a member is entitled under this Act shall commence to be paid not later than that date. Termination of right to contribute and commencement of pension at sixty-nine

(9) Notwithstanding anything to the contrary in this Act, if a contribution by the employer would not be an eligible contribution under section 147.2(2) of the *Income Tax Act* (Canada), no such contribution shall be made by the employer. Ineligible contributions



Reduction etc. of member and employer contributions	(10) When in accordance with subsection (9) contributions to the Fund must temporarily be reduced or must temporarily cease to be made, both member and employer contributions shall be temporarily reduced in the same proportion or temporarily ceased, as the case may be.
Contribution from employer when wage loss benefits received	(11) Where, pursuant to clause 1(o)(i)(C) and 1(o)(ii)(C), the service of a member includes a period of wage loss benefits under the <i>Workers Compensation Act</i> the employer shall pay the member's contribution under subsection 7(1) based on the member's salary at the date of commencement of receipt of those benefits by the member. 1981,c.5,s.7; 1983,c.5,s.1; 1985,c.8,s.1; 1987,c.10,s.4; 1992,c.11,s.2; 1993,c.28,s.3; 1996,c.8,s.5; 1997,c.8,s.2; 1997,c.60,s.1; 1998,c.84,s.3; 2000,c.4,s.1; 2001,c.30,s.4; 2004,c.28,s.4.
Written notice	<b>7.1</b> (1) "Written notice" for the purposes of this section means written notice by the Minister to an employer and member respecting the missed contributions of a member.
Missed deductions	(2) Where an employer has not made all or part of the deductions required by subsection 7(3) during a period in which the member was required to make contributions to the Fund, the employer shall pay to the Fund the amounts that the employer should have paid to the Fund pursuant to subsection 7(4), together with interest.
Member's back contributions	(3) A member may make contributions in respect of the member's service for the period during which no contributions were made, where the contributions were required pursuant to subsection 7(3).
Accrued interest on late contributions	(4) Where a member makes contributions in accordance with this section, interest accrued on the member contributions payable shall be paid <ul style="list-style-type: none"> <li>(a) by the employer for the period during which no contributions were made where the contributions were required pursuant to subsection 7(3),           <ul style="list-style-type: none"> <li>(i) to the date the member starts making contributions, or</li> <li>(ii) to the date which is 180 days after the date of written notice, whichever is earlier; and</li> </ul> </li> <li>(b) by the member for the period from 181 days after written notice to the date the member starts making the contributions.</li> </ul>
Interest	(5) Interest on contributions payable under this section shall be calculated at the rate of 5 per cent compounded annually.
Waiver of interest	(6) Notwithstanding subsection (4), the Minister may waive all or part of the interest payable by any person under this section. 2001,c.30,s.5; 2004,c.28,s.5.

**7.2** The period of service which is pensionable service for contributions made under section 7.1 is Pensionable service

(a) where both the employer and the member make the contributions referred to in section 7.1, the period of service in respect of which contributions are made; or

(b) where only the employer makes the contribution referred to in section 7.1, one-half of the period of service in respect of which contributions are made. 2001,c.30,s.5; 2004,c.28,s.6.

**8. (1)** In this section “average salary” means the average of the three years of highest salary paid to a member. Interpretation

(1.1) In calculating the “average salary”, the salary used for any period during which the member was working less than the normal full-time hours for his position shall be the salary the member would have received if he had worked the normal full-time hours for his position during that period. Average salary where hours reduced

(1.2) A reference in this section to the number of years of CPP service of a member or vested former member is a reference to the number of years determined by the formula Number of years of CPP service

$$A - B$$

where

A is the number of years or part years of pensionable service of the member or vested former member; and

B is sum of the number of years or part years referred to in A

(a) that occurred prior to January 1, 1966,

(b) that the member or vested former member purchased under the regulations made under the *Canada Pension Plan Agreement and Loans Act* before 1988,

(c) that the member or vested former member was in receipt of disability benefits under a Long Term Disability Insurance Plan,

(d) that the member or vested former member was in receipt of wage loss benefits under the *Workers Compensation Act R.S.P.E.I. 1988*, Cap. W-7.1 in respect of a total loss of earning capacity, and

(e) that the member or vested former member was in receipt of CPP retirement pension under the Canada Pension Plan.

(2) The amount of pension payable to any member who retires or is retired and who is eligible to a pension pursuant to subsection 9(1) or 9(1.1) is equal to the amount determined by the formula Computation of life-time pension amount

$$(2\% \times A \times B) - C$$

where

A is the member’s number of years of pensionable service;

B is the member's average salary; and  
 C is the amount of the pension benefits determined under subsection (2.1).

Temporary pension amount

(2.1) In addition to the amount of pension payable to a member under subsection (2), a member who retires or is retired prior to the age of 65 years, and who is eligible to receive a pension pursuant to clause 9(1)(b) or subsection (9)(1.1) is entitled to receive, until he or she attains the age of 65 years, a temporary pension amount equal to the amount determined by the formula

$$0.7\% \times A \times B$$

where

A is the number of years of CPP service of the member; and

B is the lesser of

(a) the member's average salary, and

(b) the average amount of the yearly maximum pensionable earnings of the member under the Canada Pension Plan during the same three-year period used under this section to determine the member's average salary.

Years of service

(3) In computing the number of years of pensionable service for the purpose of this section

(a) if the actual period of pensionable service includes a fraction of a year, the fraction shall be computed on a prorated basis by reference to the number of working days in that year;

(b) during any period in which a member is employed part-time, the period of pensionable service shall be computed by multiplying the number of years in the period by the ratio of the salary upon which the member's contributions were based in the period to the salary the member would have been paid if he had worked the normal full-time hours for his position during that period,

but in no case shall the number of years of pensionable service exceed thirty-five.

Annual increase

(4) The Minister shall annually on or before March 31, increase the pension or allowance being paid under this Act to any person by the percentage increase in the Consumer Price (all items) Index for Canada (1981=100) for the previous year, subject to a maximum increase of six per cent.

Application to deferred pension

(5) Subsection (4) applies to a pension deferred under clause 10(b) but only in respect of any year after the date on which this Act comes into force.

(6) The portion of the pension in respect of pensionable service after 1991 which is payable to a member or former member under subsection (2.1) in any year under this Act prior to attaining the age of sixty-five and which is considered under paragraph 8503(2)(b) of the regulations to the *Income Tax Act* (Canada) to be a bridging benefit shall in no case exceed the maximum bridging benefit allowed under the said paragraph of the regulations to the *Income Tax Act* (Canada) with respect to service after 1991.

Maximum bridging benefit

(7) The total pension in respect of pensionable service after 1991 which is payable to a member or former member in any year under the Act shall in no case exceed the maximum allowed under section 8504 of the regulations to the *Income Tax Act* (Canada) with respect to service after 1991.

Maximum pension

(8) Notwithstanding anything to the contrary in this Act or the regulations, a lifetime pension, if any, in respect of the pensionable service prior to 1990 of any member or person entitled to a pension under this Act, shall be subject to the limits and conditions under paragraphs 8504(6) and 8504(7) of the regulations made to the *Income Tax Act* (Canada), if that pensionable service was not already recognized as service under this Act prior to June 8, 1990.

Conditions applicable to service before 1990

(9) Where there has been a division of pension benefits pursuant to this Act, the amount of pension benefits payable pursuant to subsection (2) or (2.1) shall be adjusted as prescribed by regulation. 1981,c.5,s.8; 1983,c.1,s.6; 1983,c.5,s.2; 1986,c.5,s.2; 1987,c.10,s.5; 1992,c.11,s.3; 1993,c.28,s.4; 1996,c.8,s.6; 1997,c.8,s.3; 1998,c.84,s.4; 2000,c.2,s.1; 2001,c.30,s.6; 2004,c.28,s.7.

Adjustment of pension benefits

**8.1** Sections 9, 10 and 11 have effect subject to any restrictions on retirement age and reduction of pension imposed under the *Income Tax Act* (Canada). 1993,c.28,s.5.

Application of sections relating to eligibility for pension

**9.** (1) Subject to this Act and the regulations, a member who has at least five years of service and

Eligibility for pension

(a) attains the age of sixty-five years and retires; or

(b) attains the age of sixty years and retires or is retired,

is eligible to receive a pension.

(1.1) Subject to this Act and the regulations, where a member

(a) has at least thirty years of pensionable service;

(b) attains the age of fifty-five years; and

(c) retires or is retired

the member is eligible to receive a pension.

30 years service and age 55

Early retirement	(2) A member who has at least five years of service may retire or be retired on attaining the age of fifty-five years and is eligible to receive a reduced pension.
Deputy Minister, definition	(3) Repealed by 2004,c.28,s.8.
Reduced pension on early retirement	(4) A member who retires or is retired pursuant to subsection (2) before attaining the age of sixty years is entitled to a reduced pension <ul style="list-style-type: none"> <li>(a) calculated in accordance with section 8; and</li> <li>(b) reduced by the lesser of           <ul style="list-style-type: none"> <li>(i) 1/4 per cent for each full month between the date of actual retirement and the date the member would attain the age of sixty, or</li> <li>(ii) 1/4 per cent for each full month between the date of actual retirement and the date the member would have at least thirty years of service. 2000,c.2,s.2; 2001,c.30,s.7; 2004,c.28,s.8.</li> </ul> </li> </ul>
Termination of employment before retirement	<b>10.</b> (1) A member with at least five years of service who ceases to be a member prior to attaining the age of sixty years may elect <ul style="list-style-type: none"> <li>(a) pursuant to section 12, to receive a refund of all member contributions made by him during his years of service; or</li> <li>(b) to receive a pension deferred until he attains the age of sixty years.</li> </ul>
Deputy Ministers	(2) Repealed by 2004,c.28,s.9. 1981,c.5,s.10; 1993,c.28,s.7; 1996,c.8,s.10; 2004,c.28,s.9.
Abolition	<b>11.</b> (1) Repealed by 1993,c.28,s.8.
Suspension of pension	(2) and (3) Repealed by 1996,c.8,s.7.
Refund of member contributions	<b>12.</b> (1) Where a member <ul style="list-style-type: none"> <li>(a) dies;</li> <li>(b) is dismissed; or</li> <li>(c) resigns and his resignation is accepted,</li> </ul> before completing five years of service or where after completing five years of service he has elected to receive a refund of all member contributions pursuant to clause 10(1)(a), the sums which have been deducted from his salary under this Act shall in case of his death be refunded to his personal representative or, in the case of his dismissal or resignation, to the member.
Interest	(2) In the event of a return of deductions pursuant to this Act, the Minister shall pay in addition to the refund, interest thereon calculated at the rate of five per cent per annum on the annual contributions made by the member. 1981,c.5,s.12; 1982,c.3,s.1; 1983,c.1,s.6; 1986,c.5,s.2; 1996,c.8,s.10; 2000,c.2,s.3.

**13.** (1) Notwithstanding section 9, where a member or vested former member dies after at least five years of service and before retirement, sixty per cent of the pension to which the member or vested former member would have been eligible had the member or vested former member retired immediately prior to his death shall be paid to the widow or widower of the member or vested former member for life.

Death of member, vested former member widow's pension

(2) If the wife or husband of the member or vested former member dies before the member or vested former member or where, having survived the member or vested former member, the widow or widower dies leaving children by the member or vested former member, the sixty per cent pension referred to in subsection (1) shall be paid in equal shares to the children if they have not attained the age of eighteen years, until they attain that age or, if attending on a full-time basis at an institution of post-secondary education, until they attain the age of twenty-one years, or, in the case of a child who is incapable by reason of mental or physical infirmity of pursuing on a regular basis any substantially gainful employment and is a dependant, for life.

Payment of pension to children

(3) Where a member or vested former member does not leave a widow, widower or children surviving him, but leaves other dependants, the sixty per cent referred to in subsection (1) shall be paid to such dependants during their lifetime.

Payment to other dependants

(4) Where a pensioner dies while receiving a pension, sixty per cent of the pension that the pensioner would be entitled to receive if the pensioner had not died shall be paid

Payment of pension on death of pensioner

- (a) to the widow or widower of the pensioner for life, if the pensioner dies leaving a widow or widower;
- (b) to the children of the pensioner, for the period and in the shares specified in subsection 13(2), if
  - (i) the wife or husband of the pensioner dies before the pensioner and the pensioner dies leaving children surviving him or her, or
  - (ii) the widow or widower of the pensioner dies after the pensioner and leaves children by the pensioner; or
- (c) to such other dependants as the pensioner may leave, for life and in equal shares, if the pensioner does not leave a widow, widower or children surviving him or her.

(5) If a member or vested former member dies leaving a widow or widower and dependent children by a previous marriage, the Lieutenant Governor in Council may direct an apportionment among them of the pension otherwise payable to the widow or widower which apportionment may continue during dependency of any child but no longer, and may exclude the widow, widower or any child.

Apportionment where dependent children by previous marriage

Children's allowance

(6) In addition to the pension payable to the widow or widower of a member or vested former member under subsection (1) or (4) an allowance equivalent to one-sixth of the pension paid to the widow or widower of the member or vested former member shall be paid to the surviving parent or guardian on behalf of each child of the member or vested former member, up to a maximum of four, until the child attains the age of eighteen years or if attending on a full-time basis at an institution of post-secondary education, until the child attains the age of twenty-one years.

Allowance not to be less than total of deductions

(7) If a member or vested former member dies leaving only a child or children entitled to receive payments hereunder for a limited number of years, and the total of the payments is less than the total of deductions from the salary of the member under this Act, then the excess shall be paid to the personal representatives of the member or vested former member, or to the children of the member or vested former member in a lump sum.

Application

(8) Nothing in this section applies in respect of a member or vested former member or the dependants of a member or vested former member whose contributions have been refunded under section 12.

Maximum benefits

(9) Notwithstanding anything to the contrary in this Act or the regulations to this Act, benefits payable upon the death of a member, vested former member or person entitled to a benefit under this Act shall not exceed nor be inconsistent with those permitted under the *Income Tax Act* (Canada).

Termination of temporary pension benefit

(10) For greater certainty, any portion of a pension payable to a widow, widower, child or dependant of a member, vested former member or pensioner under this section that is composed of the temporary benefit provided under subsection 8(2.1) ceases to be payable under this section on the date when the member, vested former member or pensioner would have, but for his or her death, attained the age of 65 years. 1981,c.5,s.13; 1982,c.3,s.2; 1987,c.10,s.7; 1992,c.11,s.5; 1993,c.28,s.9.; 1996,c.8,s.8; 2004,c.28,s.10.

Payments to be made monthly

**14.** The pension or allowance payable to a member or vested former member, or to the widow, widower, children or dependants of a member or vested former member, shall be paid in monthly instalments and is payable for the whole of the month in which the recipient dies or ceases to be eligible to receive it. 1981,c.5,s.14; 1983,c.5,s.3; 2004,c.28,s.11.

Assignment etc. of rights

**15.** No right of a person under this Act is capable of being assigned, charged, anticipated, given as security or surrendered, and, for the purposes of this section

(a) assignment does not include assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising as a consequence of the breakdown of a marriage between an individual and the individual's spouse or former spouse nor does it include assignment by the legal representative of a deceased individual on the distribution of the individual's estate; and

(b) surrender does not include a reduction in benefits to avoid the revocation of the registration under the *Income Tax Act* (Canada) of the pension plan provided for in this Act. 1993, c.28, s.10.

**16.** (1) Every person receiving a pension under this Act upon re-employment with the province in a permanent full-time or part-time position, ceases to be entitled to the pension and payment thereof shall cease. Pension ceases on re-employment

(2) Subject to subsection (3), a person referred to in subsection (1) continues to be disentitled to a pension as long as the person continues to be re-employed, and when the re-employment ends *Idem*

(a) the person is eligible for a pension recalculated taking into account the salary received and additional pensionable service rendered for which contributions were made during the period of re-employment; or

(b) the person is entitled to restoration of the pension at the level formerly paid,

as applicable.

(3) Repealed by 2005,c.41,s.18. 1983,c.5,s.4; 1993,c.28,s.11; 2000,c.4,s.2; 2001,c.30,s.8; 2005,c.41,s.18. Exemption

**17.** (1) Interruption of service by reason of any member's enlistment and service in any of Her Majesty's forces or in services auxiliary thereto in time of war shall be disregarded in computing time of pensionable service and in assigning entitlement for it, and the member shall be regarded as being in pensionable service without any contribution required during the whole period of service in the forces or auxiliaries. Service in time of war

(1.1) Recognition of any periods of wartime service which occur after 1989 shall be subject to the limits and conditions under section 8507 of the regulations to the *Income Tax Act* (Canada). Recognition of wartime service

(2) If a member is granted leave of absence without pay, other than for service in time of war in Her Majesty's forces or auxiliaries, no contribution will be required from the member during the period of absence, and except as otherwise permitted by the regulations, the period of leave shall not Leave without pay



- (a) be calculated as part of service either to entitle the member to a pension or to increase the amount of pension to be allowed; and
- (b) be considered to be an interruption in the continuity of service.

Re-employment and continuity of service

- (3) Where a person
- (a) previously resigned from employment that entitled the person to a pension benefit under this Act;
  - (b) elected, on that resignation, to receive a refund of contributions and interest thereon under section 12 in respect of his or her years of service; and
  - (c) is subsequently re-employed in employment that qualifies the person as a member under this Act,

the person may have his or her pensionable service restored as if the member had been absent with leave under subsection (2), if the member repays to the Fund the amount that is the actuarial value, as determined by the Minister, of the pension benefits that the member will be eligible for under this Act in respect of the period of service that is restored.

Manner of repayment of contributions

- (4) A repayment referred to in subsection (3) shall, unless the Minister determines otherwise, be made by a single lump sum payment.

Repayments begun before commencement of subsection (4)

- (4.1) Where a member has, under the former subsection (4), begun but not completed the full repayment of the amount required under the former subsection (3), the member may, on the coming into force of this subsection, have his or her continuity of service restored in accordance with the former subsections (3) and (4).

Reference to former subsection (3) and (4)

- (4.2) A reference in subsection (4.1) to the former subsection (3) or to the former subsection (4) is a reference to those subsections as they read immediately before the date this subsection comes into force.

Limit on repayment

- (5) A repayment referred to in subsection (3) shall not exceed such limit as may be prescribed under the *Income Tax Act* (Canada) and, if the amount of refund received by the member at the time of his previous withdrawal was more than the amount of his own contributions accumulated with interest, any such repayment must be done by transferring an amount directly into the Fund from a registered retirement savings plan owned by the member or from another registered pension plan of which the member was a member.

Limit on initial annual pension

- (6) Repealed by 1996,c.8,s.9; 1981,c.5,s.16; 1993,c.28,s.12; 1996,c.8,s.17; 2000,c.4,s.3; 2001,c.30,s.9; 2004,c.28,s.12.

Work Force Adjustment Program

- 17.1** Repealed by S.P.E.I., 2001,c.30,s.10.

**17.2** Repealed by 2004,c.28,s.13. 1998,c.84,s.5; 1999,c.21,s.3; 2004,c.28,s.13. Provincial laboratory employee

**18.** (1) A person who is a member, a vested former member or a pensioner, or a spouse or former spouse of such person, may, in the circumstances described in subsection (2), apply to the Minister to divide the pension benefits to which the person is entitled under this Act between the person and the spouse or former spouse. Application for division of pension benefits on marriage breakdown

(2) An application may be made where

(a) a court of competent jurisdiction in Canada, in proceedings in relation to a divorce or an annulment of marriage, makes an order that provides for the division of pension benefits under this Act between the person and the spouse or former spouse;

(b) the person and the spouse or former spouse have entered into a written witnessed domestic contract that provides for the division of pension benefits between them upon divorce or annulment of marriage or upon separation; or

(c) one of the spouses commences an application based on subsection 6(2) of the *Family Law Act* respecting improvident depletion that is subsequently granted,

and the effective date of the divorce or annulment of marriage or the separation referred to in clauses (a) and (b), or the date of the application referred to in clause (c), is on or after January 1, 1998. Circumstances in which application made

(3) The value of the pension benefit shall be determined as of the valuation date in accordance with this Act and the regulations and shall be divided in accordance with an order of the court, the terms of a domestic contract or an order under subsection 6(2) of the *Family Law Act*. Determination of value of pension benefit

(4) If the pension benefits under the Fund have been divided in accordance with subsection (3), the non-member spouse has no further right under the Fund and the member's, vested former member's, or pensioner's pension benefits shall be revalued accordingly. Division under ss(3), effect

(5) A division of pension benefits under the Fund pursuant to the circumstances in subsection (2) shall not result in a reduction of the commuted value of a member's, vested former member's, or pensioner's pension benefits by more than fifty per cent. Reduction may not exceed 50%

(6) If a member would not be entitled to a deferred pension on termination of employment, the portion of the member's contributions with interest to be attributed to the non-member spouse may be paid out in cash in accordance with this Act and the regulations. Cash payment

Minister not liable	(7) Where a court order or domestic contract provides for payment by the member, vested former member, or pensioner of a sum equal to and in lieu of the amount owing to the member's, vested former member's or pensioner's spouse in relation to a pension benefit, the Minister and the Fund are not liable for any payments.
Application	(8) An application shall be made in writing containing the prescribed information, accompanied by a certified true copy of the court order or domestic contract and by such other documents as are prescribed. 1998,c.84,s.6; 2004,c.28,s.14.
Determination of questions of application	<b>19.</b> Any question arising as to the application of this Act to any person or class of persons shall be determined by the Lieutenant Governor in Council. 1981,c.5,s.18.
Interested party	<b>20.</b> (1) In this section and in sections 21 and 23 the term "interested party" means the person who is a member, a vested former member or a pensioner, and the spouse or former spouse of such person, between whom the person's pension benefits under this Act are sought to be divided.
Notice of receipt of application	(2) The Minister shall, after receiving an application, send a notice of the receipt in the prescribed manner to each interested party.
Notice where interested party is not applicant	(3) In the case of an interested party who is not the applicant, the notice shall include any document or information prescribed by regulation.
Notice received by interested party	(4) The notice is deemed to be received by an interested party thirty days after the day on which it is sent in the prescribed manner to that party. 1998,c.84,s.7.
Interested party objects	<b>21.</b> (1) An interested party who objects to the division of pension benefits on any of the grounds described in subsection (2) <ul style="list-style-type: none"> <li>(a) may submit a notice to the Minister or his or her delegate in writing within thirty days after the day on which notice of the receipt of the application is deemed under subsection 20(4) to be received by that party; and</li> <li>(b) shall include with the notice, documentary evidence to establish the grounds for objection.</li> </ul>
Grounds for objection	(2) The grounds for objection are <ul style="list-style-type: none"> <li>(a) that the court order, or domestic contract has been varied or is of no force or effect;</li> <li>(b) that the terms of the court order or domestic contract have been, or are being satisfied by other means; or</li> </ul>

(c) that proceedings have been commenced in a court of competent jurisdiction in Canada to appeal or review the court order or challenge the terms of the domestic contract. 1998,c.84,s.7.

**22.** (1) Subject to subsections (2) and (3), the Minister shall, as soon as is practicable after the Minister is satisfied that an application meets the requirements of this Act, approve the division of the pension benefits for which the application is made. Minister approves division

(2) If an interested party submits a notice of objection to the Minister in accordance with section 21, the Minister shall defer any decision on the application until such time as the Minister is able to ascertain to the Minister's satisfaction whether the grounds referred to in clauses 21(2)(a) or (b) have been established, or until the final disposition of the proceedings referred to in clause 21(2)(c), as the case may be. Deferral of decision

(3) The Minister shall refuse to approve the division of pension benefits under this Act where Minister refuses approval, where

- (a) the application for the division does not meet the requirements of this Act;
- (b) the application is withdrawn in accordance with the regulations;
- (c) the Minister is satisfied that grounds for objection under clause 21(2)(a) or (b) have been established and that they provide sufficient reason to refuse the division;
- (d) as a result of the proceedings described in clause 21(2)(c), the court finds that the court order or domestic contract is of no force or effect in respect of the division of pension benefits; or
- (e) the period subject to division cannot be determined. 1998,c.84,s.7.

**23.** (1) A division of pension benefits shall be effected by transferring in accordance with subsection (3) an amount which is not more than fifty per cent of the lump-sum value of the pension benefits of the member, vested former member or pensioner subject to division, as determined in accordance with the regulations. Transfer of not more than 50%

(2) The pension benefits of the member shall be adjusted for the period between the date of marriage breakdown and the date the division is effected in accordance with the regulations. Adjustment

(3) A non-member spouse, or a non-member former spouse who is entitled to a lump-sum amount upon division of pension benefits shall direct the Minister to transfer the amount to either Shall direct transfer

- (a) a pension plan selected by the spouse or former spouse that is registered under the *Income Tax Act* (Canada), if that pension plan so permits,

- (b) a retirement savings plan or fund for the spouse or former spouse that is of the prescribed kind, or
- (c) a financial institution authorized to sell immediate or deferred life annuities of the prescribed kind, for the purchase of such an annuity for the spouse or former spouse.

Failure to direct  
Minister

(4) If the non-member spouse fails to direct the Minister in relation to the manner in which his or her entitlement is to be dealt with according to the regulations, that spouse shall be deemed to have directed the Minister to purchase a deferred life annuity.

Adjustment

(5) Where the pension benefits of a member, vested former member or pensioner have been divided under this section the pension benefits and accumulated contributions contributed by the member, vested former member or pensioner shall be adjusted in accordance with the regulations.

Both spouses  
members, one  
pension divided,  
where

(6) Where both spouses or former spouses are either members, vested former members, or pensioners, and the pension benefits of only one spouse or former spouse have been divided pursuant to this Act, the receiving spouse or former spouse is not entitled to a lump sum payment and the division shall be effected in accordance with the regulations.

No further division,  
where

(7) Where the pension benefits of a member, vested former member or pensioner in respect of a given period of marriage have been divided under this section, no further division of pension benefits may be made under this section in respect of that period.

Payment to estate

(8) An amount that cannot be transferred in accordance with subsection 23(1) by reason only of the death of the spouse or former spouse shall be paid to the estate of the spouse or former spouse.

Notice of division

(9) The Minister shall send a notice of the division of the pension benefits in the prescribed manner to each interested party. 1998,c.84,s.7.

Payments in excess  
of entitlement

**24.** If the amount transferred in respect of a spouse or former spouse or paid to the estate of that deceased person under subsection 23(8) exceeds the amount to which that person was entitled to have transferred or the estate was entitled to be paid, the amount in excess constitutes a debt due to the Government of Prince Edward Island by that spouse, former spouse or estate. 1998,c.84,s.7.

*Idem*

**25.** Where an adjustment is made under section 23, and an amount is or has been paid to a member, vested former member, or pensioner that exceeds the amount to which that member, vested former member, or pensioner is or would have been entitled under the Fund after the effective date of that adjustment, the amount in excess constitutes a debt

due the Government of Prince Edward Island by that member, vested former member, or pensioner and may be recovered at any time by set-off against any pension benefit that is payable to that member, vested former member, or pensioner from the Fund, without prejudice to any other recourse for recovery that may be available to the Government of Prince Edward Island. 1998,c.84,s.7.

**26.** (1) Amounts to which a spouse or former spouse is or may become entitled under section 23 are not capable of being assigned, charged, anticipated or given as security, and any transaction that purports to assign, charge, anticipate or give as security any such amount is void. No assignment

(2) Subject to sections 24 and 25 and regulations made pursuant to subsection 28(k), amounts to which a spouse or former spouse is or may become entitled under section 23 are exempt from attachment, seizure and execution, either at law or in equity. 1998,c.84,s.7. Exemption from seizure

**27.** (1) Notwithstanding any other provision of this Act, where a court of competent jurisdiction in Canada so orders, the Minister shall not, for such period as the court may order, take any action on the direction of a member that may prejudice the ability of the spouse or a former spouse to make an application or obtain a division of pension benefits under this Act. Minister may not prejudice, where court order

(2) The Minister shall, in accordance with the regulations, on request of a spouse or former spouse of a member, vested former member, or pensioner, provide that person with prescribed information concerning the pension benefits that are or may become payable to or in respect of that member, vested former member, or pensioner under the Fund. 1998,c.84,s.7. Information to be provided by Minister

**28.** The Lieutenant Governor in Council may make regulations Regulations

(a) defining the terms under which a person may elect to contribute for years of service prior to the person's participation as a member;

(a.1) repealed by 2005,c.41,s.18;

(a.2) defining the terms under which a member may elect to contribute for periods of time during which the member was on an eligible leave of absence pursuant to subsection 17(2);

(a.3) respecting participating employers to which this Act applies;

(a.4) respecting the persons who are, for the purposes of clause 1(i)(vii), included as members, including prescribing the positions, or classes or types of positions, that entitle the persons holding such positions to be included as members;

(a.5) respecting the distribution under subsection 3(9) of surplus funds remaining in the Fund after a former member transfers money

- from the Fund on the transfer of his or her years of superannuation service;
- (b) providing for proof to be furnished before any pension or allowance is paid under this Act;
  - (c) prescribing the circumstances in which a person may make an application under section 23 of the Act on behalf of another person or may act on behalf of another person in prosecuting an application that has been made by that other person;
  - (d) prescribing the circumstances in which a personal representative may make and proceed with an application pursuant to section 23;
  - (e) respecting the manner in which and the extent to which any provision of this Act applies to a person referred to in clauses (c) and (d) or in the circumstances prescribed by the regulations and adapting any provision of this Act to those persons or circumstances;
  - (f) respecting the withdrawal of applications;
  - (g) for the purposes of section 23, for determining, on the basis of generally accepted actuarial principles, the value of pension benefits during the period subject to division;
  - (h) for the purposes of sections 8 and 23, respecting the adjustment of the pension benefits;
  - (i) requiring interest be paid on lump sum amounts and prescribing the rate of interest or the manner of determining the rate of interest;
  - (j) for determining the effective date of the adjustment of pension benefits;
  - (k) respecting the charging of amounts payable under this Act to the Government of Prince Edward Island or to any account or accounts in the accounts of the Government of Prince Edward Island;
  - (l) respecting the provision of information to a spouse or former spouse under subsection 27(2);
  - (m) prescribing any matter or thing that by this Act is to be or may be prescribed; and
  - (n) generally for the better carrying out of the purposes and provisions of this Act. 1998,c.84,s.7; 2000,c.4,s.4; 2001,c.30,s.11; 2004,c.28,s.15; 2005,c.41,s.18.

SCHEDULE  
CIVIL SERVICE SUPERANNUATION FUND  
SCHEDULE OF ADDITIONAL GOVERNMENT CONTRIBUTIONS

DATE OF PAYMENT	AMOUNT PAYABLE TO FUND
April 1, 1995	\$ 11.6 million
April 1, 1996	\$ 5.75 million
March 31, 1998*	\$ 5.75 million
April 1, 1998	\$ 5.75 million
April 1, 1999	\$ 5.75 million
April 1, 2000	\$ 5.75 million
April 1, 2001	\$ 5.75 million
April 1, 2002	\$ 5.75 million
April 1, 2003	\$ 5.75 million
April 1, 2004	\$ 5.75 million

\* An amount equal to the revenue that would otherwise have been earned for the period April 1, 1997, to March 31, 1998, on the contribution for the 1997 - 1998 fiscal year that is deferred to March 31, 1998, shall be paid in 7 equal instalments commencing on April 1, 1998. 1995, c.7, s.4; 1997,c.8.